

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:12-CR-31

v.

HON. JANET T. NEFF

EDWIN ELLIOTT WOLF,

Defendant.

/

MEMORANDUM OPINION AND ORDER

Defendant Edwin Elliott Wolf has filed a motion for modification or reduction of sentence (Dkt 42) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission. The U.S. Probation Department has filed a Report of Eligibility (Dkt 45) and Defendant has filed a Response (Dkt 49).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

Having fully considered the Sentence Modification Report (Dkt 45) and Defendant's response (Dkt 49), the Court has determined that the defendant is ineligible for a reduction of sentence according to the policy statements of the U.S. Sentencing Commission.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 42) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED because the defendant's guidelines were driven by the Felon in Possession count and not the drug quantity associated with Count Two. Defendant wishes to preserve the issue for future consideration should the law change. *See, Cvijetinovic v. Eberlin*, 617 F. 3d. 833, 840 (6th Cir. 2010).

DATED: February 16, 2016

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge